

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ENCARNACION SALAS IV,

Petitioner,

v.

ATTORNEY GENERAL,

Respondent.

CASE NO. C22-1864 BHS

ORDER

THIS MATTER is before the Court on Magistrate Judge Theresa L. Fricke's Report and Recommendation (R&R), Dkt. 7, recommending the Court deny pro se petitioner Encarnacion Salas's 28 U.S.C. § 2254 habeas petition for failure to exhaust his state court remedies, specifically by failing to appeal his conviction to the state's highest court, the Washington Supreme Court. Dkt. 7 at 2. Salas objects, arguing that he appealed to the Washington Court of Appeals, which "goes through" the Superior Court. Dkt. 8.

The R&R correctly concluded that, to properly exhaust his federal claims, a would-be habeas petitioner must finish "one complete round of the State's established appellate review process," up to the highest state court with powers of discretionary review. Dkt. 7 at 2 (citing *O'Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999)). A federal

1 court must dismiss a federal habeas corpus petition if its claims are unexhausted.

2 *Coleman v. Thompson*, 501 U.S. 722, 731 (1991).

3 Salas's claims are unexhausted, and the R&R is **ADOPTED**. His amended § 2254
4 petition, Dkt. 6, is **DISMISSED without prejudice**. The Court will not issue a certificate
5 of appealability.

6 The Clerk shall enter a JUDGMENT and close the case.

7 IT IS SO ORDERED.

8 Dated this 27th day of June, 2023.

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11 BENJAMIN H. SETTLE
12 United States District Judge
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